

BEFORE THE BOARD OF DENTAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

TIM PATRICK NICOLINO, D.D.S., RESPONDENT

STATEMENT OF CHARGES,

**SETTLEMENT AGREEMENT and FINAL ORDER
(combined)**

COMES NOW the Iowa Board of Dental Examiners (the Board), and Tim Patrick Nicolino, D.D.S. (Respondent), on April 17, 2003, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into the following combined Statement of Charges, Settlement Agreement and Final Order.

STATEMENT OF CHARGES

1. Respondent was issued license number 6914 to practice dentistry in Iowa on July 27th, 1983.
2. Respondent's Iowa dental license is current and will expire on June 30, 2004.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.

COUNT I

4. The Respondent is charged under Iowa Code Section 153.34(15) (2001) with the inability to practice dentistry with reasonable skill and safety by reason of habitual or excessive use of drugs, narcotics, chemicals, or other types of materials.

COUNT II

5. The Respondent is charged under Iowa Code Section 153.34(4) (2001) with willfully or repeatedly violating a Board rule by failing to maintain patient records in a manner consistent with the protection of the welfare of the patient pursuant to 650 Iowa Administrative Code 27.11.

CIRCUMSTANCES

6. On February 20th, 2003, the Board received information indicating that Respondent is chemically dependant.
7. Respondent subsequently entered a residential evaluating/treatment facility and has been successfully discharged. As part of Respondent's discharge, the evaluating/treatment facility recommended that Respondent be subject to numerous terms for the maintenance of his recovery.

SETTLEMENT AGREEMENT

8. The Respondent's dental license shall immediately be placed on indefinite probation subject to the terms and conditions of this Order. Respondent may not petition the Board for termination of his probation for five (5) years from the date of this Order.
9. The Respondent shall immediately document successful compliance with all recommendations of the evaluating/treatment facility prior to returning to practice.
10. The Respondent shall sign releases to allow for the free flow of information between the Board and all of Respondent's evaluators, counselors, and aftercare providers.
11. The Respondent shall fully cooperate with random unannounced visits or audits by agents of the Board.
12. The Respondent shall be responsible for all costs associated with compliance with this Order, and shall also be responsible for all costs, including mileage and

expenses, incurred by the Board in the monitoring of this Order to determine compliance. Respondent shall promptly remit for such costs.

13. The Respondent shall submit monthly reports detailing his compliance with this Order for a period of six (6) months. After six (6) months the Respondent shall submit quarterly reports detailing his compliance with the terms of this Order during the remainder of his probationary period. These reports shall include, but not be limited to, signed verification of his Alcoholics Anonymous/Narcotics Anonymous attendance, and participation with his physician counselor/aftercare provider(s).
14. The Respondent shall upon reasonable notice, and subject to the waiver provisions of Board rule 650 Iowa Administrative Code 31.6, appear before the Board at the time and place designated by the Board.
15. Respondent shall not store, administer or dispense any medications, or samples, excluding local anesthetics.
16. Respondent shall not prescribe, administer or dispense any controlled substances or mood altering chemicals to himself or any family members.
17. Respondent shall maintain a prescription log for all controlled substances and mood altering chemicals separate and apart from patient records. This log shall list all prescriptions issued for controlled substances and mood altering chemicals by date in chronological order, and shall contain the name and telephone number of the patient, prescription name, quantity, and reason for issuance.
18. The Respondent shall completely abstain from the personal use and possession of alcohol and all controlled substances or drugs in any form, unless lawfully prescribed by a duly licensed and treating health care provider in consultation with his treating

physician counselor. The Respondent shall inform any treating health care provider of his prior chemical dependency prior to accepting any prescription drug and ensure that the treating health care provider consults with his treating physician counselor prior to the issuance of any controlled substances. The Respondent shall report to the Board in writing within seven (7) days the use of any medications prescribed to him. The report shall include the date issued, the name and quantity of the prescription, the name and phone number of the prescribing health care provider, the reason for the prescription, and the date, name, and telephone number of the pharmacy where the prescription was filled.

19. Respondent shall attend meetings of Alcoholics Anonymous or Narcotics Anonymous at least four (4) times each week. At least two (2) meetings per month shall be meetings for professionals (Caduceus). Respondent shall document and submit written verification of his attendance in monthly reports to the Board for the first six (6) months. Thereafter Respondent shall submit written verification of his attendance in quarterly reports to the Board, but shall continue to attend meetings at the above frequency rate until further Order of the Board. Verification of meeting attendance requires the date, time, and location of the meeting along with a signature or initials of another person in attendance accompanied by a phone number that they can be reached at for verification.
20. The Respondent shall institute and maintain regular contact with a local 12-step sponsor.
21. The Respondent shall obtain care with a local physician with addiction experience to provide primary healthcare. Respondent shall sign releases to allow the Board to

fully communicate with his physician. Respondent shall promptly document compliance with any and all recommendations made by his physician.

22. The Respondent shall participate in individual and family counseling with an approved counselor certified in substance abuse. Respondent shall submit to the Board names of a counselor certified in substance abuse. The counselor shall be approved by the Board. The counselor shall assess Respondent and submit a proposed counseling plan for Board approval. Respondent shall sign releases to allow the Board to fully communicate with the counselor. Respondent shall attend the counseling sessions at a frequency rate determined by the facility, but such sessions may not be less than quarterly without prior Board approval. Said counseling shall be arranged within four (4) weeks of the date of this Order. The counseling shall be at Respondent's expense.
 - a. The Board's approval of the counselor may be rescinded by the Board for good cause.
 - b. If Respondent or counselor feels it is necessary to terminate their relationship, a written explanation by both parties must be submitted to the Board at least thirty (30) days before termination of the relationship.
 - c. In either case, Respondent shall submit other names of substance abuse counselors for the Board's approval within fifteen (15) days from the date of the Board's rescission Order or date of the relationship termination.
23. Respondent is responsible for ensuring that his substance abuse counselor submits written quarterly reports to the Board concerning Respondent's treatment and progress. The report shall include, but is not limited to, Respondent's progress,

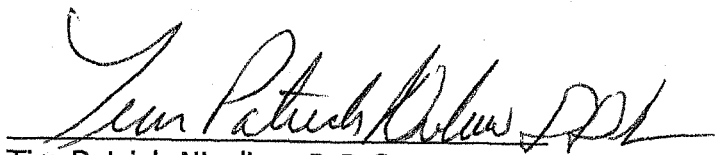
participation in his recovery program, and compliance with the counselor's recommendations.

24. Respondent shall follow up with the evaluating/treatment facility as required or as requested by the facility and shall be responsible for ensuring that the facility submit written reports to the Board concerning his recovery, progress and compliance with recommendations.
25. Any relapse of Respondent shall be immediately reported to the Board by the Respondent, and by any of Respondent's treating health care providers.
26. The Respondent shall participate in the Board's random drug and alcohol screening program, and agrees to submit to testing at the frequency determined by the Board. In addition, Respondent shall submit to unannounced random witnessed blood, urine, or breathanalysis samples on demand by any agent or designee of the Board.
27. Respondent shall promptly pay all costs associated with any of the drug and alcohol screenings.
28. The Respondent shall provide notice to all current and future licensees in his practice, employers and staff, of this action against his license. The Respondent shall report back to the Board with signed statements from all current and future licensees, employers, and staff within ten (10) days of the date of this Order and thereafter within ten (10) days of any new employment relationship, indicating that they have read this Order.
29. The Respondent shall fully and promptly comply with all Orders of the Board and statutes and rules regulating the practice of dentistry in Iowa.

30. Periods of residency outside of the State of Iowa may be applied toward period of probation if prior approved by the Board. Any changes in residency must be provided to the Board in writing within fourteen (14) days of departure.
31. Respondent shall successfully complete a Board-approved course in record keeping within sixty (60) days of the date of this Order.
32. Respondent shall successfully complete a jurisprudence examination to be taken at the office of the Board within thirty (30) days of the date of this Order.

FINAL ORDER

33. This combined Statement of Charges, Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.
34. By entering into this combined Statement of Charges, Settlement Agreement and Final Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to the terms of this Settlement Agreement.
35. This combined Statement of Charges, Settlement Agreement and Final Order, is voluntarily submitted by Respondent to the Board for consideration.
36. This combined Statement of Charges, Settlement Agreement and Final Order, is subject to approval of the Board. If the Board fails to approve this combined Statement of Charges, Settlement Agreement and Final Order, it shall be of no force or effect to either party.
37. The Board's approval of this Settlement Agreement and Final Order shall constitute a **Final Order** of the Board.


Tim Patrick Nicolino, D.D.S.
Respondent

Subscribed and sworn to before me on April 17, 2003.

Notary Public, State of Iowa Linda L. Pickering

LINDA L. PICKERING
Notarial Seal - Iowa
Commission # 141439
My Commission Expires 10-30-04

This combined Statement of Charges, Settlement Agreement and Final Order is approved by
the Board on April 17, 2003.

LeRoy I. Strohman, D.D.S.
LeRoy I. Strohman, D.D.S., Chairperson
Iowa Board of Dental Examiners
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Des Moines, IA 50309-4687

cc: Theresa O'Connell Weeg
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